

TRANSPORTATION MS4 - STORM WATER MANAGEMENT PROGRAM

(This part applies to state and county agencies who maintain roadways, highways and other thoroughfares in the state including but not limited to Mass Highway Department and New Hampshire Department of Transportation)

PART V

A. Storm Water Management Program

The permittee must develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; protect water quality, and satisfy the water quality requirements of the Clean Water Act and state water quality standards

1. The permittee must develop a storm water management program implementing the minimum measures described in Paragraph V.B.
2. All elements of the storm water management program must be implemented by the expiration date of this permit.
3. Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully implement the measure. The permittee may rely on another entity only if:
 - (a.) the other entity, in fact, implements the control measure;
 - (b.) the particular control measure, or component of that measure is at least as stringent as the corresponding permit requirement.
 - (c.) The other entity agrees to implement the control measure on the permittee behalf. A legally binding written acceptance of this obligation is expected. This obligation must be maintained as part of the storm water management program. If the other entity agrees to report on the minimum measure, the permittee must supply the other entity with the reporting requirements contained in this permit under Paragraph V.E.
 - (d) The permittee remains responsible for permit compliance and implementation of the minimum measure if the other entity fails to do it.
4. For each minimum measure, the permittee must:
 - (a.) identify the person(s) or department responsible for the measure;
 - (b.) identify Best Management Practices (BMPs) for the measure;
 - (c.) identify measurable goals for each best management practice. The permittee may also identify an overall goal for each measure. Time lines and milestones for implementation of BMPs should be identified.
5. The following EPA websites may be used in the development of BMPs and measurable goals.
EPA's BMP menu: <http://www.epa.gov/npdes/menuofbmeps/menu.htm>
EPA's guidance on Measurable goals:
<http://www.epa.gov/npdes/stormwater/measurablegoals/index.htm>

B. Minimum Control Measures

1. Public education and outreach. The permittee must implement a public education program to distribute educational material to the community. For the purposes of this permit, a community

consists of the people who use the facility. For a transportation agency, this would include employees, contractors, and general public. The public education program must provide information concerning the impact of storm water discharges on water bodies. It must address steps and/or activities that the community can take to reduce the pollutants in storm water runoff. The following should be included in education and outreach efforts:

- (a.) cover activities that occur within the facility, including illegal dumping into storm drains.
- (b.) coordinate activities with local groups (i.e. watershed associations, or schools)
- (c.) materials for outreach/education may include, but are not limited to, pamphlets; fact sheets; brochures; public service announcements; storm drain stenciling and newspaper advertisements.
- (d.) encourage cooperative efforts with neighboring municipalities, watershed associations and others.

2. Public involvement and participation. All public involvement activities must comply with state public notice requirement.

- (a.) The permittee must provide opportunity for the public to participate in the development, implementation and review of the storm water management program. In Massachusetts, the public notice requirements are at Chapter 39, Section 23B. In New Hampshire, the public notice requirements are at RSA-91A. These public notice requirements do not apply to Indian tribes.

3. Illicit discharge detection and elimination. The permittee must develop, implement and enforce a program to detect and eliminate illicit discharges. An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of storm water. Exceptions are discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal sewer system), allowable non-storm water discharges described at Part I.F. and discharges resulting from fire fighting activities.

- (a.) If not already existing, the permittee must develop a storm sewer system map. At a minimum, the map must show the location of all outfalls and the names of all waters that receive discharges from those outfalls. Due to the magnitude of a transportation agency's drainage system, identification of out falls may be done on a district basis, and as part of construction and redevelopment projects.

Additional elements may be included on the map, such as, location of catch basins, location of manholes, and location of pipes within the system. Mapping should be based on all existing information available to the permittee including project plans, city records, drainage maps and field surveys.

- (b.) The permittee must effectively prohibit, through a regulatory mechanism, non storm water discharges into the system. The regulatory mechanism must provide for appropriate enforcement procedures and actions. If a regulatory mechanism does not exist, development and adoption of such a mechanism must be included as part of the storm water management program. The permittee should evaluate existing procedures, policies and authorities pertaining to connections to its separate storm sewer system.

If an illicit discharger fails to comply with procedures or policies established by the agency, the permittee may rely on EPA or the state environmental agency for assistance in enforcement of this provision of the permit.

(c.) The permittee must develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, into the system.

The illicit discharge plan must contain the following elements:

- i. Procedures to identify priority areas. This includes areas suspected of having illicit discharges, for example: older areas of a city, areas of high public complaints, and areas of high recreational value or high environmental value such as beaches and drinking water sources.
- ii. Procedures for locating illicit discharges (i.e. visual screening of out falls for dry weather discharges, dye or smoke testing)
- iii. Procedures for locating the source of the discharge and procedures for the removal of the source.
- iv. Procedures for documenting actions and evaluating the impact on the sewer system subsequent to the removal.

(d.) The permittee must inform users of the system and the general public of hazards associated with illegal discharges and improper waste disposal. The permittee must train field inspectors to recognize illicit discharges

(e.) The non storm water discharges listed in Part I.F. must be addressed if they are identified as being significant contributors of pollutants.

4. Construction site storm water runoff control. The permittee must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The permittee must include disturbances less than one acre if part of a larger common plan.

The permittee does not need to apply its construction program provisions to projects that receive a waiver from EPA under the provisions of 40 CFR§122.26(b)(15)(i).

At a minimum, the program must include:

- (a.) A regulatory mechanism to require sediment and erosion control at construction sites. If such a mechanism does not exist, development and adoption of a mechanism must be part of the program. The permittee may rely on EPA or the state agency for assistance in enforcing this provision if a construction site operator does not comply with procedures.
- (b.) Sanctions to ensure compliance with the program. Sanctions may include both monetary or non-monetary penalties. The transportation agency can consider withholding payment to contractors who fail to implement appropriate sediment and erosion control plans.
- (c.) Requirements for construction site operators to implement a sediment and erosion control program which includes best management practices that are appropriate for the conditions at the construction site. The Massachusetts Highway Department may use

its Storm Water Handbook as a tool to implement this provision. The New Hampshire Department of Transportation may use the Storm Water Management Sediment and Erosion Control Handbook as a tool to implement this provision.

(d.) Require control of wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes.

(e.) Procedures for site plan review including procedures which incorporate consideration of potential water quality impacts. The site plan review should include procedures for preconstruction review.

(f.) Procedures for receipt and consideration of information submitted by the public. This may include the opportunities for public comment during the project development process.

(g.) Procedures for inspections and enforcement of control measures at construction sites.

5. Post construction storm water management in new development and redevelopment.

The permittee must develop, implement and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than one acre and discharge into the municipal system.

The program must include projects less than one acre if the project is part of a larger common plan of development.

The post construction program must include:

(a.) A regulatory mechanism to address post construction runoff from new development and redevelopment. If such a mechanism does not exist, development and adoption of a mechanism must be part of the program. The permittee may rely on EPA or the state environmental agency for assistance in enforcement of this provision.

(b.) Procedures to ensure adequate long term operation and maintenance of best management practices.

(c.) Procedure to ensure that any controls that are in place will prevent or minimize impacts to water quality.

6. Pollution prevention and good housekeeping in community/facility operations.

The permittee must

(a.) Develop and implement a program with a goal of preventing and/or reducing pollutant runoff from transportation facility operations. The program must include an employee training component.

(b.) Include, at a minimum, maintenance activities for the following : rest areas along interstates; weigh stations; material storage yards; new construction and land disturbance; and storm water system maintenance.

(c.) Develop schedules for maintenance activities described in paragraph (b) above.

(d.) Develop inspection procedures and schedules for long term structural controls.

7. Cooperation with interconnected municipal separate storm sewer systems. The permittee should identify interconnections within the system. These interconnections include both those leaving the system and those entering the system. The permittee should attempt to work cooperatively with an interconnected municipality in instances of discharges impacting either system.

8. MS4s which discharge to coastal waters with beaches should consider these waters a priority in implementation of the storm water management program.

9. The permittee should consider opportunities for ground water recharge and infiltration in the implementation of the minimum measures described above.

C. Program Evaluation

1. The permittee must annually evaluate the compliance of the storm water management program with the conditions of this permit.

2. The permittee must evaluate the appropriateness of the selected Best Management Practices in efforts towards achieving the defined Measurable Goals. The SWMP may be changed in accordance with the following provisions:

(a.) Changes adding (but not subtracting or replacing) components, controls or requirements to the SWMP may be made at any time upon written notification to EPA and MADEP/NHDES

(b.) Changes replacing an ineffective or unfeasible BMP specifically identified in the SWMP with an alternative BMP may be requested at any time. Unless denied, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If the request is denied, EPA will send a written explanation of the denial.

(c.) Modification requests, must include the following information:

i. an analysis of why the BMP is ineffective or infeasible (including cost prohibitive)

ii. expectations on the effectiveness of the replacement BMP, and

iii. an analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.

iv. Change requests or notifications must be in writing and signed in accordance with the signatory requirements of Part VI.

3. EPA or MADEP/NHDES may require changes to the SWMP as needed to:

(a.) Address impacts on receiving water quality caused or contributed to by discharges from the MS4;

(b.) To include more stringent requirements necessary to comply with a new Federal statutory or regulatory requirement; or

(c.) To include such other conditions deemed necessary to comply with the goals and requirements of the CWA.

(d.) Any changes requested by EPA or MADEP/NHDES will be in writing and will set forth the time schedule for the permittee to develop the changes and offer the opportunity to propose alternative program changed to meet the objective of the requested modification.

D. Record Keeping

1. All records required by this permit must be kept for a period of three years. Records include information used in the development of the storm water management program, any monitoring, copies of reports, and all data used in the development of the notice of intent.
2. Records need to be submitted only when specifically requested by the permitting authority.
3. The permittee should make the records relating to this permit available to the public, including the storm water management program. The public may view the records during normal business hours. The permittee may charge a reasonable fee for copying requests.

E. Reporting

1. The permittee must submit an annual report on the effective date of this permit. The initial report is due one year from the effective date of this permit and annually thereafter. The reports should contain information regarding activities of the previous calendar year. Reports should be submitted to EPA. At the following address:

United States Environmental Protection Agency
Water Technical Unit
P.O. Box 8127
Boston, MA 02114

Massachusetts transportation MS4s must also submit reports to:

Department of Environmental Protection
Division of Watershed Management
627 Main Street
Worcester, Massachusetts 01680

New Hampshire transportation MS4s must also submit reports to:

New Hampshire Department of Environmental Services
Water Division
Wastewater Engineering Bureau
P.O. Box 95
Concord, NH 03302-0095

2. The following information must be contained in the annual report:
 - (a) A self assessment review of compliance with the permit conditions
 - (b) An assessment of the appropriateness of the selected BMPs.
 - (c) An assessment of the progress towards achieving the measurable goals

(d) A summary of results of any information that has been collected and analyzed. This includes any type of data.

(e) A discussion of activities for the next reporting cycle.

(f) A discussion of any changes in identified BMPs or measurable goals.

(g) Reference any reliance on another entity for achieving any measurable goal.

F. Public Drinking Water Supply Requirements

1. MS4s which discharge to public drinking water sources and their protection areas (Class A and B surface waters used for drinking water and well head protection areas) should consider this waters a priority in implementation of the storm water management program.
2. Discharges to public drinking water supply sources and their protection areas (wellhead protection areas, Class A and Class B waters) should provide pretreatment and spill control capabilities to the extent practicable.
3. Discharges to Class A waters, Zone 1 wellhead protection areas, and the sanitary radius to supply wells should be avoided to the extent feasible.

G. Massachusetts State Permit Conditions

This permit is issued jointly by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection under federal and state law, respectively. As such, all the terms and conditions of this permit are hereby incorporated into and constitute a discharge permit issue by the Commissioner of the MA DEP pursuant to M.G.L. Chap. 21, §43 and under regulations found at 314 CMR 3.00. Regulations found at 314 CMR 3.19 (Standard Permit Conditions) are incorporated into this permit by reference.

Each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit as issued by the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared invalid, illegal or otherwise issued in violation of the state law such permit shall remain in force and effect under federal law as a NPDES permit issued by the U.S. Environmental Protection Agency. In the event this permit is declared invalid, illegal or otherwise issued in violation of federal law, this permit shall remain in full force and effect under state law as a permit issued by the Commonwealth of Massachusetts.